

In the Drawings:

In the original Figure 1 the three boxes representing "Database Engine 1", "Database Engine 2", and "Database Engine N" all have label lines pointing to the label "110". In the Specification, these components are referred to as elements 110, 112, and 114 respectively. To correct this discrepancy the following changes are proposed.

As represented in the amended Replacement Figure 1 the label line for "Database Engine 1" points to the label "110". The label line for "Database Engine 2", points to the label "112". The label line for "Database engine N", points to the label "114".

### **REMARKS**

The above-referenced application has been reviewed in light of the Examiner's Office Action dated December 16, 2003. Claim 10 has been amended. Accordingly, Claims 1-19 are currently pending in this application. Figure 1 has been amended. No New Matter has been added. The Examiner's reconsideration of the rejections in view of the following remarks is respectfully requested.

In accordance with the Office Action, Claim 10 stands rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicants respectfully submit that amended Claim 10 is directed toward statutory subject matter, and is patentable for at least the reason stated below.

The amended Claim 10 is directed to a storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for a matching algorithm. A storage device is at a minimum an article of manufacture, which is statutory subject matter under 35 U.S.C. §101.

Claims 1 and 11 stand rejected under 35 U.S.C. §103(a), as being unpatentable over, "MediaNet: A multimedia Information Network for Knowledge Representation", in Conference on Internet Multimedia Management Systems. Vol. 4210 Boston, MA, Nov. 2000, IST/SPIE.'00, Author: Benitez *et. al.* (hereinafter "Benitez") in view of, "Supporting Ranked Boolean Similarity Queries in MARS", IEEE Trans. on Knowledge and Data Engineering, 10, Nov – Dec. 1998, Author: Ortega *et. al.* (hereinafter "Ortega"). Applicants respectfully submit with traverse that Claims 1 and 11 are not rendered obvious by Benitez in view of Ortega, for at least the reasons set forth below.

With reference to Benitez, which was published on Nov. 6, 2000, applicants respectfully submit that the invention as claimed in the present application was conceived before the publication of Benitez. A Rule 131 Declaration by the inventors is submitted herewith, along with a copy of a Provisional Application, serial number 60/246,052, filed on Nov. 6, 2000. The '052 Provisional Application supports the features claimed in the present application, and it is evidence that conception of the invention claimed in the present application must have occurred before the filing date of the '052 Provisional Application on Nov. 6, 2000, the date of publication of Benitez. John R. Smith is a common inventor to both the present application and the '052 Provisional Application. Therefore, the Rule 131 Declaration removes Benitez as a reference applied against the claims of the present application. Without Benitez, a *prima facie* case of obviousness based solely on Ortega cannot be sustained.

Thus, it is respectfully submitted that the Claims 1 and 11 are not rendered obvious by Benitez in view of Ortega.

Claims 2-9 and 12-19 stand rejected under 35 U.S.C. §103(a), as unpatentable over Benitez in View of Ortega and further in view of, "CAMEL: Concept annotated image Libraries", in Storage and Retrieval for Images and Video Databases, San Jose, CA, Jan. 2001. SPIE, Author: Natsev *et al.* (hereinafter "Natsev"). Applicants respectfully submit with traverse that Claims 2-9 and 12-19 are not rendered obvious by Benitez in view of Ortega, and further in view of Natsev, for at least the reasons set forth below.

Benitez, as discussed above, is removed as a reference. Neither Ortega or Natsev, alone or in combination discloses the elements of Claims 1 and 11. Thus, Claims 1 and 11 are not rendered obvious in view of Ortega over Natsev. Claims 2-9 depend from Claim 1, and Claims 12-19 depend from Claim 11, and thus necessarily include each of the elements and limitations thereof. The dependent claims are not rendered unpatentable for the reasons given above for the independent claims.

Claims 9 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ortega. The examiner stated, "nonfunctional descriptive material cannot render non-obvious an invention that would have otherwise been obvious."

Applicants respectfully disagrees that Claims 9 and 19 recite nonfunctional descriptive matter. Since Claims 9 and 19 depend from Claims 1 and 11 respectively, and thus, necessarily include each of the elements and limitations thereof, Claims 9 and 19 are not rendered obvious for the reasons stated above.

Therefore, each of the Claims 1-19 is not rendered unpatentable by the cited references.

It is respectfully submitted that the above identified application, including Claims 1-19, is believed to be in condition for allowance. All issues raised by the Examiner having been addressed,

reconsideration of the rejections and an early and favorable allowance of this case is earnestly solicited.

Respectfully submitted,

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